REMARKS

As a preliminary matter, Applicants' representative thanks the Examiner for courtesies extended to Mr. Joseph Meara in the telephone interview of August 3, 2005, discussing the election/restriction requirement mailed June 23, 2005. Applicants' representative brought the preliminary amendment, filed June 9, 2005, to the Examiner's attention. The Examiner agreed to apply the species election to the claims as amended, and Applicants' representative elected a species for further search.

Claims 25 through 49 are pending. Claims 34, 35, and 42-45 are amended to define the invention with greater particularity. No new matter is introduced as the amended language is fully supported by the specification and claims as originally filed including, but not limited to, p. 54, lines 8-10. Applicants respectfully request reconsideration of the present application in view of the foregoing amendment and the following remarks.

Applicants respectfully traverse the rejection of claims 42 through 45 under 35 U.S.C. Section 112 second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. It is asserted in the Office Action that "the term "effective amount" is indefinite where the claim fails to state the function which is to be rendered effective." Page 2. As amended, claims 42 through 45 provide a method of inhibiting LpxC and thus clearly state the function which is to be rendered effective. Accordingly, Applicants respectfully request withdrawal of this ground of rejection.

Applicants respectfully traverse the rejection of claims 25-49 under 35 U.S.C. § 102(b) as allegedly anticipated by Kline *et al.* (J. Med. Chem. (2002), 45, pp. 3112-29 (CAPLUS Abstract)). Applicants respectfully submit that Kline *et al.* is not a proper reference under 35 U.S.C. § 102(b) because this article was not published more than one year prior to the two earliest claimed priority dates (60/438,523, filed 01/08/2003; and 60/466,974, filed 04/30/2003) of the present application. Applicants further note that even if Kline *et al.* were a proper reference, the compound having the Chemical Abstract registry number 445019-29-4 and related compounds disclosed therein are not encompassed by claims 28-31, 33-37, 39, 41, 43, 45, 47, and 49. Moreover, the reference does not teach the use of any

compound of the invention with a second agent as recited in claims 40, 41, 44, 45, 48, and 49. Accordingly, Applicants respectfully request that the rejection of claims 25-49 under 35 U.S.C. § 102(b) be withdrawn.

To avoid receiving a rejection under 35 U.S.C. § 102(a) in the following action, Applicants submit herewith a declaration of co-author and inventor Dr. Eric Harwood under 37 C.F.R. 1.131 (hereinafter, "Harwood Decl."). Dr. Harwood declares that he is the inventor of the subject matter of at least claims 25-27 and 32 prior to June 7, 2002, the publication date of the cited reference. Harwood Decl., ¶ 1-2. Evidence supporting Dr. Harwood's declaration of inventorship is presented in Exhibits A and B of the declaration and described in paragraphs 3-4.

Exhibit A provides pages of Dr. Harwood's laboratory notebook (pages 35, 42, 73, 77, 80, 83, and 90) showing representative compounds which he conceived of and synthesized prior to June 7, 2002. Harwood Decl., ¶ 3. Many of these compounds were part of a library of compounds he conceived of and synthesized prior to June 7, 2002. *Id.* Each compound displays the primary features of the compounds recited in the claims: an amino acid derivative bearing a hydroxyalkyl side chain, a hydroxamic acid group, and a hydrophobic N-acyl group. Therefore, each of these compounds is a species of the compounds recited by claims 25-27 and 32.

Exhibit B is an internal research report Dr. Harwood prepared for the predecessor of the present assignee prior to June 7, 2000. Harwood Decl., ¶ 4. The report documents compounds of library 1a conceived and synthesized by Dr. Harwood by the time of the report. *Id.* The report sets forth additional compounds conceived by Dr. Harwood for a second library, 2a, which could be synthesized by the same route disclosed for the first library. *Id.* Each "acyclic" compound disclosed in the report displays the primary features of the compounds recited in the claims: an amino acid derivative bearing a hydroxyalkyl side chain, a hydroxamic acid group, and a hydrophobic N-acyl group. *Id.* The title of the report shows that Dr. Harwood conceived of these compounds for use as LpxC inhibitors. *Id.* Such inhibitors were known to be useful as antibacterial agents prior to the publication of the cited reference as evidenced by footnote 5 of the cited reference. Thus, consistent with notebook

pages of Exhibit A, the report sets forth numerous compounds that fall within the scope of claims 25-27 and 32, and shows that Dr. Harwood had conceived of all of the features of the claimed compounds, knew how to make them, and understood their utility prior to the publication of the cited reference.

Exhibits A and B separately and together show that Mr. Harwood invented the genus of compounds defined by claims 25-27 and 32 prior to June 7, 2002. Accordingly, the subject matter of at least claims 25-27, 32 and claims depending therefrom was invented prior to the publication the cited reference, and the work reported therein cannot anticipate these claims.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

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